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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

ROBERTO PAVON QUIMPO,

Defendant and Appellant.

A150639

(Solano County
Super. Ct. No. VCR225198)

Roberto Pavon Quimpo appeals from a judgment after a jury found him guilty of two counts of oral copulation with a child under 10 years old and one count of committing a lewd act upon a child. His court-appointed counsel has filed a brief seeking our independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436 to determine whether there are any arguable issues on appeal. We conclude there are no issues requiring further review and affirm.

PROCEDURAL HISTORY

Following a preliminary hearing, Quimpo was charged in an information with two counts of oral copulation with a child under 10 years old by a person who was 18 years of age or older in violation of Penal Code section 288.7, subdivision (b) that were said to have occurred between July 1, 2012, and March 31, 2014. He was also charged with a single count of a lewd act upon a child in violation of section 288, subdivision (a) that occurred over the same time period. Quimpo pled not guilty to all charges, and the case was tried to a jury in March 2016.

The jury found Quimpo guilty of all counts alleged in the information and he was sentenced to consecutive terms of 15 years to life for each of the counts of oral copulation with a three-year consecutive term for the count of lewd act upon a child. He timely appealed.

FACTUAL BACKGROUND

The parents of the victim were friends and neighbors of Quimpo and his wife. In October 2012, the Quimpos began providing child care for the victim while her parents were at work. Generally, the little girl was dropped off when Quimpo was home alone, but sometimes his wife was also at home. The arrangement continued until March 2014 when the child began to resist being left at the Quimpos' apartment. When the child's mother asked the little girl what was wrong, she described acts of molestation she said were performed upon her by Quimpo.

The child victim, who was seven years old at the time of trial, testified. She described a series of acts that provided evidence Quimpo committed each of the charged crimes. She testified that Quimpo told her not to tell her parents, but she talked to her mother a lot about what he did.

The defense argued the charges were false. Quimpo provided evidence that the molestation charges were retaliatory and likely filed in revenge for a dispute that arose between the families. The defense called the little girl's father who testified that he got into a fight with Quimpo over a parking space outside their apartment building in October 2015. He denied that he hit Quimpo but was arrested later that evening and did not mention any concern about molestation to the police at that time. His wife later went to the police station and reported the abuse of their daughter by Quimpo.

Quimpo's wife testified that she never allowed Quimpo to be alone with the victim. She had experience working in a medical office and learned that there should always be someone present when a man cares for a female. She was certain about this and followed the rule at all times. She disputed the reason they stopped providing care for the victim. She said the child care arrangement ended because her daughter was expecting and they were too busy to care for a neighbor's child. She recalled seeing

injuries on her husband's face at the time of his fight with the victim's father, but she did not know what caused them.

The defense also provided expert testimony to critique the methods employed in interviews of the victim conducted by law enforcement and county officials. He testified that there were issues in the way the interviews were conducted that did not eliminate concerns about suggestibility or coaching of the victim. The defense also argued that there were inconsistencies in the victim's statements that were played to the jury and that her mother was coaching her to describe the molestation.

Quimpo filed a motion for new trial. He argued that cell phone records obtained after trial provided evidence that the care arrangement between the Quimpos' and the victim's family ended in October 2013 when the Quimpos' daughter was pregnant, not March 2014. Thus, he claimed the Quimpos' could have been more effectively impeached as to the reason for terminating the child-care arrangement. He also claimed that the victim's therapist records, provided during trial pursuant to a ruling, should have been provided earlier so the defense expert could consider their effect on possibly coaching the victim to allege the abuse occurred. He also alleged that newly acquired evidence suggested the victim's mother gave two weeks notice when she quit her job and began caring for the victim, thus demonstrating there was no urgency in terminating the child-care arrangement. Finally, he argued the prosecutor committed misconduct by arguing the defense was trying to distract the jury from the issues and there was insufficient evidence to support the verdict.

The court denied a new trial. The trial judge concluded there was no showing the defense was diligent in obtaining the newly acquired evidence, and it would not have made a difference in the verdict. There was compelling evidence to support the jury's verdict and there was no misconduct.

DISCUSSION

Quimpo's counsel has represented that she advised Quimpo of her intention to file a *Wende* brief in this case and of Quimpo's right to submit supplemental written argument on his own behalf. He has not done so. Quimpo has also been advised of his

right to request that counsel be relieved.

Our full review of the record reveals no issue that requires further briefing.

DISPOSITION

The judgment is affirmed.

Siggins, P.J.

WE CONCUR:

Fujisaki, J.

Petrou, J.

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